



# **REFERENCE GUIDE FOR CIVIL INVOLUNTARY DETENTION**

**DIVISION OF  
COMPREHENSIVE PSYCHIATRIC SERVICES**

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## INTRODUCTION

This Reference Guide provides an overview of the civil involuntary detention process. It is designed as a reference guide for those who may be involved in the process of civil involuntary detention. Civil involuntary detention procedures for mental health and for alcohol and drug abuse are discussed. Definitions of important terms, procedural issues, timelines and the use of forms are explained. Citations and references from the *Revised Statutes of Missouri (RSMo.)* are also included.

Your local Probate Court may have procedures that differ from those in this Guide. In such cases, you should follow the directions of your local Probate Court. In all cases, the language of the statutes remains the final authority. This Guide is intended as a resource and should not be construed as legal advice.

## 96 HOUR CIVIL INVOLUNTARY COMMITMENT: OVERVIEW

A person who presents a likelihood of serious harm to self or others as the result of a mental disorder or alcohol or drug abuse may be involuntarily detained for evaluation and treatment at a mental health or alcohol/drug abuse facility recognized by the Department of Mental Health.

### **Community-Based Civil Commitment**

A person residing in the community can be civilly committed in one of two ways:

- **Probate Court Commitment**

Commitment can be sought by filing the proper application in the probate court. This application can be filed by any adult person. The probate Judge will review the application and if the Judge finds probable cause to order the commitment, the Judge will order a Peace Officer to take the person into custody and transport the person to a recognized facility. A public facility **shall** and a private facility **may** provisionally accept the person. If accepted, the facility shall evaluate the person and admit or release the person according to statute.

- **Imminent Harm Commitment**

For a person in the community who presents an imminent likelihood of serious harm due to a mental disorder or alcohol or drug abuse unless the person is immediately taken into custody, a Peace Officer may complete an application for imminent harm, take the person into custody and transport the person to a recognized facility. The facility **may** provisionally accept the person and, if accepted, evaluate the person and admit or release the person.

### **Facility-Based Civil Commitment**

A person who presents to a recognized facility and who demonstrates an imminent likelihood of serious harm to self or others as the result of a mental disorder or alcohol or drug abuse may be involuntarily detained upon application by a mental health professional who has been designated by the head of the facility and approved by the Department of Mental Health through training provided by the local Access Crisis Intervention (ACI) provider.

## 96 HOUR MENTAL HEALTH COMMITMENT: PROBATE COURT

### Ninety-six Hour Commitment

Any adult person may file an **application** (*DMH 128 Application*) with the probate court and an **affidavit** alleging under oath (*DMH 142 Affidavit*) that a person (respondent) suffers from a mental disorder and presents a likelihood of serious harm to self or others. The person filing must also provide a **list of witnesses** (*DMH 137 List of Witnesses*) who will be providing affidavits or testifying. The application and affidavit may be filed with the probate court in any jurisdiction where the person may be found. If the probate court finds the person meets criteria for commitment, the court will issue an **order** (*DMH 129, OSCA MH15 Order for 96 Hour Detention*) and issue a **warrant** (*DMH 130 Warrant*) directing a Peace Officer to take the person into custody and transport the person to a mental health facility.

### Mental Disorder

any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living 630.005(22)

### Likelihood of Serious Harm

means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person; 632.005(10)

## **Forms**

Completed by any adult person and presented to the Court:

*DMH 128 Application*  
*DMH 142 Affidavit*  
*DMH 137 List of Witnesses*

Issued by the Court

*DMH 129 or OSCA MH15 Order for 96 Hour Detention*  
*DMH 130 Warrant*

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632.305. 1. An application for detention for evaluation and treatment may be executed by any adult person, who need not be an attorney or represented by an attorney, including the mental health coordinator, on a form provided by the court for such purpose, and must allege under oath that the applicant has reason to believe that the respondent is suffering from a mental disorder and presents a likelihood of serious harm to himself or to others. The application must specify the factual information on which such belief is based and should contain the names and addresses of all persons known to the applicant who have knowledge of such facts through personal observation.

2. The filing of a written application in court by any adult person, who need not be an attorney or represented by an attorney, including the mental health coordinator, shall authorize the applicant to bring the matter before the court on an ex parte basis to determine whether the respondent should be taken into custody and transported to a mental health facility. The application may be filed in the court having probate jurisdiction in any county where the respondent may be found. If the court finds that there is probable cause, either upon testimony under oath or upon a review of affidavits, to believe that the respondent may be suffering from a mental disorder and presents a likelihood of serious harm to himself or others, it shall direct a peace officer to take the respondent into custody and transport him to a mental health facility for detention for evaluation and treatment for a period not to exceed ninety-six hours unless further detention and treatment is authorized pursuant to this chapter. Nothing herein shall be construed to prohibit the court, in the exercise of its discretion, from giving the respondent an opportunity to be heard.

## 96 HOUR ALCOHOL AND DRUG COMMITMENT: PROBATE COURT

### Ninety-six Hour Commitment

Any adult person may file an **application** (*DMH 128 Application*) with the probate court and an **affidavit** alleging under oath (*DMH 142 Affidavit*) that a person (respondent) presents a likelihood of serious harm to self or others as a result of alcohol or drug abuse, or both. The person filing must also provide a **list of witnesses** (*DMH 137 List of Witnesses*) who will be providing affidavits or testifying. The application and affidavit may be filed with the probate court in any jurisdiction where the person may be found. If the probate court finds the person meets criteria for commitment, the court will issue an **order** (*DMH 129, OSCA MH20 Order for 96 Hour Detention*) and issue a **warrant** (*DMH 130 Warrant*) directing a Peace Officer to take the person into custody and transport the person to an alcohol and drug abuse facility.

### Alcohol and Drug Abuse

- **Alcohol abuse:** the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior 630.005(2)
- **Drug abuse:** the use of any drug without compelling medical reason, which use results in a temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical impairment and causes socially dysfunctional behavior 630.005(12)

### Likelihood of Serious Harm

See previous definition

### Forms

Completed by any adult person and presented to the Court:

*DMH 128 Application*  
*DMH 142 Affidavit*  
*DMH 137 List of Witnesses*

## Issued by the Court

### *DMH 129 or OSCA MH 20 Order for 96 Hour Detention DMH 130 Warrant*

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631.115. 1. Any adult person may file an application in the probate division of the circuit court for detention, treatment, and rehabilitation in an alcohol or drug abuse facility of a person presenting a likelihood of serious harm to himself or others as a result of alcohol or drug abuse, or both.

2. The procedures of section 632.305, RSMo, apply to the disposition of the application and entry of an order by the court for detention, treatment, and rehabilitation for up to ninety-six hours unless further authorized by the court, for a person found, upon probable cause, to be presenting a likelihood of serious harm to himself or others as a result of alcohol or drug abuse, or both.

9) "**Likelihood of serious harm**" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;



## 96 HOUR MENTAL HEALTH & ALCOHOL AND DRUG COMMITMENT: PEACE OFFICER IMMINENT HARM

When a Peace Officer believes that a person presents an imminent likelihood of serious harm due to a mental disorder or alcohol or drug abuse and there is not sufficient time to file an application with the probate court, the peace officer may immediately take the person into custody and present the person to a mental health or alcohol/drug facility. Upon arrival to the facility, the Peace Officer, based on the officer's own personal observations or investigations, shall complete the **application for imminent harm admission** (*DMH 132 Application Imminent Harm*) and complete or present an **affidavit** alleging under oath (*DMH 142 Affidavit*) that the person suffers from a mental disorder or alcohol or drug abuse and presents an imminent likelihood of serious harm. The Peace Officer must also provide a **list of witnesses** (*DMH 137 List of Witnesses*) who will be providing affidavits or testifying.

### **Forms**

Completed by the Peace Officer and presented to the mental health or alcohol/drug facility

*DMH 132 Application Imminent Harm*  
*DMH 142 Affidavit*  
*DMH 137 List of Witnesses*

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632.305.3. A mental health coordinator may request a peace officer to take or a peace officer may take a person into custody for detention for evaluation and treatment for a period not to exceed ninety-six hours only when such mental health coordinator or peace officer has reasonable cause to believe that such person is suffering from a mental disorder and that the likelihood of serious harm by such person to himself or others is imminent unless such person is immediately taken into custody. Upon arrival at the mental health facility, the peace officer or mental health coordinator who conveyed such person or caused him to be conveyed shall either present the application for detention for evaluation and treatment upon which the court has issued a finding of probable cause and the respondent was taken into custody or complete an application for initial detention for evaluation and treatment for a period not to exceed ninety-six hours which shall be based upon his own personal observations or investigations and shall contain the information required in subsection 1 of this section.

See **631.120** for alcohol and drug reference.

See previous citations for **mental disorder, alcohol abuse, drug abuse and likelihood of serious harm.**

## 96 HOUR MENTAL HEALTH & ALCOHOL AND DRUG COMMITMENT: FACILITY DESIGNEE COMMITMENT

If a person at a mental health facility or an alcohol/drug abuse facility presents an imminent likelihood of serious harm due to a mental disorder or alcohol or drug abuse such that the person must be immediately detained, a professional designated by the head of the facility and approved by the Department of Mental Health (facility designee) may complete an **application for imminent harm admission** (*DMH 132 Application Imminent Harm*) and an **affidavit** alleging under oath (*DMH 142 Affidavit*) that the person suffers from a mental disorder or alcohol or drug abuse and presents an imminent likelihood of serious harm. The facility designee must also provide a **list of witnesses** (*DMH 137 List of Witnesses*) who will be providing affidavits or testifying.

The facility designee must be designated by the head of the facility and, for mental health facilities, must be a licensed physician, mental health professional (psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, licensed professional counselor or psychiatric social worker) or registered professional nurse. For alcohol and drug abuse facilities, the facility designee can be any of the above as well as a qualified counselor. Facility designees are approved by the Department of Mental Health after the designee has received training on civil involuntary detention procedures (see section on Facility Designees).

### **Forms**

Completed by the facility designee and presented to the mental health or alcohol/drug facility

*DMH 132 Application Imminent Harm*  
*DMH 142 Affidavit*  
*DMH 137 List of Witnesses*

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632.305.4. If a person presents himself or is presented by others to a mental health facility and a licensed physician, a registered professional nurse or a mental health professional designated by the head of the facility and approved by the department for such purpose has reasonable cause to believe that the person is mentally disordered and presents an imminent likelihood of serious harm to himself or others unless he is accepted for detention, the licensed physician, the mental health professional or the registered professional nurse designated by the facility and approved by the department may complete an application for detention for evaluation and treatment for a period not to exceed ninety-six hours. The application shall be based on his own personal observations or investigation and shall contain the information required in subsection 1 of this section.

See **631.120** for alcohol and drug reference.

See previous citations for **mental disorder, alcohol abuse, drug abuse** and **likelihood of serious harm**.

## 96 HOUR MENTAL HEALTH & ALCOHOL AND DRUG COMMITMENT: VOLUNTARY CLIENT REQUESTING RELEASE

If a person voluntarily admitted at a mental health facility or an alcohol/drug abuse facility requests release and, in the opinion of the head of the facility presents a likelihood of serious harm due to a mental disorder or alcohol or drug abuse, the head of the facility may refuse the request for release and a professional designated by the head of the facility and approved by the Department of Mental Health (facility designee) may complete an **application for detention of a voluntary patient requesting release** (*DMH 133 Application Voluntary Patient Requesting Release*) and an **affidavit** alleging under oath (*DMH 142 Affidavit*) that the person suffers from a mental disorder or alcohol or drug abuse and presents an imminent likelihood of serious harm. The facility designee must also provide a **list of witnesses** (*DMH 137 List of Witnesses*) who will be providing affidavits or testifying. The facility designee must be designated by the head of the facility and, for mental health facilities, must be a licensed physician, mental health professional (psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, licensed professional counselor or psychiatric social worker) or registered professional nurse. For alcohol and drug facilities, the facility designee can be any of the above as well as a qualified counselor. Facility designees are approved by the Department of Mental Health after the designee has received training on civil involuntary detention procedures (see section on Facility Designees).

### Forms

Completed by the facility designee and presented to the mental health or alcohol/drug facility

*DMH 133 Application Voluntary Patient Requesting Release*

*DMH 142 Affidavit*

*DMH 137 List of Witnesses*

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632.150. 1. A voluntary patient who has applied for his own admission may request his release either orally or in writing to the head of the mental health facility and shall be released immediately; except, that if the head of the facility determines that he is mentally disordered and, as a result, presents a likelihood of serious physical harm to himself or others, the head of the facility may refuse the request for release.

2. If the request for release is refused, the mental health facility may detain the person only if a mental health coordinator, a licensed physician, a registered professional nurse designated by the facility and approved by the department, a mental health professional or a peace officer completes an application for detention for evaluation and treatment to begin the involuntary detention of the patient under this chapter.

631.110. 2. The head of an alcohol or drug abuse facility shall release any client who requests his release in writing or whose release is requested by his guardian or parent, if the parent applied for admission; except that, if the head of the facility believes the client is presenting a likelihood of serious harm as a result of the alcohol or drug abuse, the head of the facility may deny the request for release. If the request for release is denied, the head of the facility may detain the client only if he immediately initiates the involuntary detention procedure set out in this chapter.

See previous citations for **mental disorder, alcohol abuse, drug abuse and likelihood of serious harm.**

## PROFESSIONALS WHO MAY BECOME FACILITY DESIGNEES

The following professionals must be designated by the head of the facility and approved by the Department of Mental Health (facility designees) to complete imminent harm applications. Facility designees are approved by the Department of Mental Health after the designee has received training on civil involuntary detention procedures.

### **Mental Health Facility**

**Mental health professional:**, a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse or psychiatric social worker 632.005(13)

**Psychiatrist:** a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department 632.005(19)

**Resident in psychiatry:** a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department 632.005(21)

**Psychologist:** a person licensed to practice psychology under chapter 337, RSMo, with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals 632.005(20)

**Psychiatric nurse:** a registered professional nurse who is licensed under chapter 335, RSMo, and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders 632.005(17)

**Licensed professional counselor:** a person licensed as a professional counselor under chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder 632.005(9)

**Psychiatric social worker:** a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder 632.005(18)

**Licensed physician:** a physician licensed pursuant to the provisions of chapter 334, RSMo, or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150 RSMo 632.005(8)

**Registered professional nurse:** a registered professional nurse who is licensed under chapter 335, RSMo

## **Alcohol And Drug Facility**

**Mental health professional:**, a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse or psychiatric social worker **632.005(13)**

**Psychiatrist:** a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department **632.005(19)**

**Resident in psychiatry:** a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department **632.005(21)**

**Psychologist:** a person licensed to practice psychology under chapter 337, RSMo, with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals **632.005(20)**

**Psychiatric nurse:** a registered professional nurse who is licensed under chapter 335, RSMo, and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders **632.005(17)**

**Licensed professional counselor:** a person licensed as a professional counselor under chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder **632.005(9)**

**Psychiatric social worker:** a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder **632.005(18)**

**Licensed physician:** a physician licensed pursuant to the provisions of chapter 334, RSMo, or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150 RSMo **632.005(8)**

**Registered professional nurse:** a registered professional nurse who is licensed under chapter 335, RSMo

**Qualified counselor:** a person who provides substance abuse counseling and who meets the qualifications prescribed in the standards for certification of alcohol and drug abuse programs under rules promulgated by the department of mental health, as authorized by sections 630.050 and 630.655 RSMo” **631.005(4)**

**NOTE:** Qualified counselors can complete imminent harm applications **ONLY** to alcohol/drug abuse facilities (NOT to mental health facilities).

## GUIDELINES FOR COMPLETING APPLICATIONS

- *DMH 128* is the Application used for mental health and alcohol and drug 96 hour involuntary commitments in probate court.
- *DMH 132* is the Application used by facility designees or peace officers for 96 hour imminent harm commitments for mental health and alcohol and drug.
- *DMH 133* is the Application used by facility designees for a voluntary client requesting release.
- “RESPONDENT” means the person who is the subject of the involuntary detention proceedings.
- Begin your Application by providing identifying information about the respondent.
- Provide information that supports the belief that the respondent is mentally disordered or an abuser of alcohol or drugs or both.
- Provide information that supports the belief that the respondent presents a likelihood of serious harm.
- Summarize the information provided on the affidavits.
- The Application must state the facts, behaviors and beliefs that support the application.
- Witnessed behaviors should be included if possible.
- Peace Officer Applications are based on the officer's own personal observations or investigations.
- Attach the Affidavits (*DMH 142*) and the List of Witnesses (*DMH 137*).
- Write only on the front of the Application form.
- Applications must be notarized.
- The Application becomes part of the court file and medical record which are accessible to the individual if the individual requests to see it. There is no guarantee of confidentiality.
- Local courts may have other or additional requirements.

## GUIDELINES FOR COMPLETING AFFIDAVITS

- *DMH 142* is the Affidavit used for mental health and alcohol and drug involuntary commitments and is executed under oath.
- “RESPONDENT” means the person who is the subject of the involuntary detention proceedings.
- Begin your Affidavit by identifying your relationship to the respondent.
- An Affidavit should address issues of mental disorder or alcohol/drug abuse and likelihood of serious harm
- Generally, an Affidavit should answer the questions: who, what, when, where, and how.
- Describe those behaviors and statements which suggest the person may be mentally disordered or an alcohol and/or drug abuser.
- Describe those behaviors and statements that suggest the person may be harmful to himself or others.
- Statements should be concise and to the point.
- Witnessed behaviors should be included if possible.
- Peace Officer Affidavits are based on the officer’s own personal observations or investigations.
- Write only on the front of the Affidavit form.
- Affidavits must be notarized.
- The Affidavit becomes part of the court file and medical record which are accessible to the individual if the individual requests to see it. There is no guarantee of confidentiality.
- Some probate courts may require more than one Affidavit in certain situations or may have other or additional requirements.

## **GUIDELINES FOR COMPLETING THE LIST OF WITNESSES**

- *DMH 137* is the List of Witnesses used for mental health and alcohol and drug involuntary commitments.
- Provide the names, addresses and telephone numbers of prospective witnesses who executed an Affidavit, who may testify or who may have knowledge about the person referred for commitment.
- The name of the attorney who will represent the respondent does not need to be provided at the time the application is filed. This will be determined later and the List of Witnesses forwarded to the attorney. The person filing the Application does not need to be concerned about this.
- The List of Witnesses becomes part of the court file and medical record which are accessible to the individual if the individual requests to see it. There is no guarantee of confidentiality.
- Including someone on the List of Witnesses does not mean that person will have to complete an Affidavit or have to testify.
- Anyone not on the List of Witnesses may not be allowed to provide testimony.
- Local courts may have other or additional requirements.



## **ADMISSION OF 96 HOUR COMMITMENTS**

### **Court Order or Facility Designee Application**

Whenever a person has been involuntarily committed for 96 hours by order of the probate court or by application by a facility designee, a public facility shall and a private facility may immediately accept the person on a provisional basis. The facility shall then evaluate the person and either admit the person for treatment or release the person if, in the opinion of the facility, the person does not require commitment. This applies to both mental health and alcohol and drug facilities.

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632.310. 1. Whenever a court has authorized the initial detention and evaluation of a respondent pursuant to subsection 2 of section 632.305, or whenever a mental health coordinator submits an application for initial detention and evaluation pursuant to subsection 3 of section 632.305, or whenever a licensed physician, a registered professional nurse designated by the facility and approved by the department, or a mental health professional submits an application for initial detention and evaluation pursuant to subsection 4 of section 632.305, a public mental health facility shall, and a private mental health facility may immediately accept such application and the respondent on a provisional basis, and the facility shall then evaluate the respondent's condition and admit him for treatment or release him in accordance with the provisions of this chapter.

631.125. The provisions of section 632.310, RSMo, shall also apply to admission or rejection for detention, treatment, and rehabilitation of a respondent at an alcohol or drug abuse facility.

### **Peace Officer Imminent Harm Application**

When a person is presented for 96 hour imminent harm application by a Peace Officer, the facility may, but is not required to, immediately accept the person. If the facility accepts the person, the facility shall then evaluate the person and either admit the person for treatment or release the person if, in the opinion of the facility, the person does not require commitment. This applies to both mental health and alcohol and drug facilities.

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632.310.2. Whenever a peace officer applies for initial detention and evaluation pursuant to subsection 3 of section 632.305, the mental health facility may, but is not required to, accept the application and the respondent. If the facility accepts the application and the respondent, the facility shall evaluate the respondent's condition and admit him for treatment or release him in accordance with the provisions of this chapter.

631.125. The provisions of section 632.310, RSMo, shall also apply to admission or rejection for detention, treatment, and rehabilitation of a respondent at an alcohol or drug abuse facility.

**ADMISSION OF 96 HOUR COMMITMENTS:  
INFORMATION PROVIDED AND TIME LIMITS**

Within **3 hours** of arriving at a mental health or alcohol or drug abuse facility, the person shall be given a copy of the **application for involuntary commitment** (*DMH 128, DMH 132 or DMH 133 Application*), the **notice of admission** (*DMH 138 Notice of Admission of Involuntary Patient*) which gives the date and time of the admission and the name of the attorney who will represent the person and the **notice of rights** (*DMH 145 Notice of Rights of Involuntary Patient*).

Within **3 hours**, if requested, the person shall also be given assistance in contacting the appointed or other attorney.

Within **3 hours** of arriving at a mental health facility the person shall be seen by a mental health professional or registered professional nurse.

Within **18 hours** of arriving at a mental health facility the person shall be examined by a licensed physician.

Within **24 hours** (excluding weekends and legal holidays) of a person's detention at a mental health or alcohol or drug abuse facility, the head of the facility shall file with the court the **application for involuntary commitment** (*DMH 128, DMH 132 or DMH 133 Application*), the **notice of admission** (*DMH 138 Notice of Admission of Involuntary Patient*) and the **notice of rights** (*DMH 145 Notice of Rights of Involuntary Patient*) signed by the facility to prove the notice was given. Copies shall be provided to the probate court, the client, the client's attorney and the Department of Mental Health Central Office.

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632.320. 1. Within three hours of the time at which the respondent arrives at a mental health facility he shall:

- (1) Be seen by a mental health professional or registered professional nurse; and
- (2) Be given a copy of the application for initial detention and evaluation, a notice of rights pursuant to section 632.325 and a notice giving the name, business address and telephone number of the attorney appointed to represent him; and
- (3) Be provided assistance in contacting the appointed attorney or an attorney of his own choosing, if so requested.

2. Within eighteen hours after the respondent arrives at the mental health facility, he shall be examined by a licensed physician.

631.130. Within three hours after the arrival of the respondent at an alcohol or drug abuse facility, the respondent shall be given a copy of the application for detention; a notice of rights as set out in section 631.135; and a notice giving the name, business address, and telephone number of an attorney appointed to represent him, and assistance in contacting the attorney if so requested.

632.315. Any mental health facility accepting a respondent pursuant to section 632.310 shall be furnished a copy of the application for initial detention and evaluation. If a person is involuntarily detained in a mental health facility pursuant to section 632.310, no later than twenty-four hours after his arrival, excluding Saturdays, Sundays and legal holidays, the head of the mental health facility or the mental health coordinator shall file with the court the application, a copy of the notice required by section 632.325 and proof that the notice was given. The person's designated attorney shall receive a copy of all documents. The head of the mental health facility shall send copies of all completed applications, whether accepted for admission or not, to the designated mental health coordinator for the region.

See **631.175**.

## NOTICE OF RIGHTS

If the person is accepted for 96 hour detention at a mental health or alcohol or drug abuse facility, the facility must provide the person with the **notice of rights** (*DMH 145 Notice of Rights of Involuntary Patient*) **within 3 hours of admission**. A staff member must have the person read the rights in the presence of the staff member, or the staff member must read the rights to the person and answer any questions of the person. The staff member must sign the form. These rights include notice that:

- (1) The person may be detained for ninety-six hours from the time of the initial detention to be evaluated and treated;
- (2) Within the ninety-six hours, the head of the mental health facility may file a petition to have the person detained for an additional period not to exceed twenty-one days, after a court hearing;
- (3) The person will be given a judicial hearing within two judicial days after the day the petition for additional detention is filed;
- (4) An attorney has been appointed who will represent the person before and after the hearing and who will be notified as soon as possible; provided, however, that the person also has the right to private counsel of the person's own choosing and own expense;
- (5) The person has the right to communicate with counsel at all reasonable times and to have assistance in contacting such counsel;
- (6) The purpose of the evaluation is to determine whether the person meets the criteria for civil detention and that anything the person says to personnel at the facility may be used in making that determination, may result in involuntary detention proceedings being filed against the person and may be used at the court hearing;
- (7) The person has the right to present evidence and to cross-examine witnesses who testify against the person at the hearing;
- (8) During the period prior to being examined by a licensed physician, the person may refuse medication unless the person presents an imminent likelihood of serious physical injury to self or others;
- (9) The person has the right to refuse medication except for lifesaving treatment beginning twenty-four hours prior to the hearing for twenty-one-day detention;
- (10) The person has the right to request that the hearing be held in his county of residence if the person is a resident of this state;
- (11) The person has the right to have an interpreter assist the person to communicate, at the facility or during the hearing, or both, if the person has impaired hearing or does not speak English.

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See **632.325** mental health and **631.135** alcohol and drug.

## NOTICE OF RIGHTS: HEARING

If a court hearing is held for additional detention beyond 96 hours, the person shall have the right to:

- (1) To be represented by an attorney;
- (2) To present evidence on his or her own behalf;
- (3) To cross-examine witnesses who testify against him or her;
- (4) To remain silent;
- (5) To view and copy all petitions and reports in the court file of his or her case;
- (6) To have the hearing open or closed to the public as he or she elects;
- (7) To be proceeded against according to the rules of evidence applicable to civil judicial proceedings;
- (8) A hearing before a jury if requested by the client or the client's attorney (for mental health hearings).

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See **632.335** mental health and **631.145** alcohol and drug.

## ADDITIONAL INPATIENT DETENTION BEYOND 96 HOURS: MENTAL HEALTH

### TWENTY-ONE DAY COMMITMENT

If the head of the facility has reasonable cause to believe that a person, currently under a 96 hour commitment is **mentally ill** and as a result presents a **likelihood of serious harm** to self or others and is in need of additional inpatient detention, the head of the facility may file with the probate court a **petition** for additional detention and treatment (*DMH 134-1 Petition for Involuntary Detention and Treatment*) not to exceed 21 days and **list of witness** (*DMH 137 List of Witnesses*). The court shall serve petition and list of witnesses to the client and the client's attorney.

### Mental Illness

For commitment beyond 96 hours, the person must be meet the statutory definition for **mental illness**, not merely **mental disorder**.

- **Mental disorder:** any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living; 630.005(22)
- **Mental illness:** a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:
  - (a) Mental retardation, developmental disability or narcolepsy;
  - (b) Simple intoxication caused by substances such as alcohol or drugs;
  - (c) Dependence upon or addiction to any substances such as alcohol or drugs;
  - (d) Any other disorders such as senility, which are not of an actively psychotic nature. 630.005(23)

## **Petition**

This petition shall:

- (1) Allege that the person, by reason of mental illness, presents a likelihood of serious harm to self or to others;
- (2) Allege that the person is in need of continued detention and treatment on an inpatient basis;
- (3) Allege the specific behavior of the person or the facts which support such conclusion;
- (4) Affirm that attempts were made to provide necessary care, treatment and services in the least restrictive environment to the person on a voluntary basis, but either the petitioner believes that the person lacks the capacity to voluntarily consent to care, treatment and services or the person refuses to voluntarily consent to care, treatment and services such that proceeding with a petition for the person's civil detention in the least restrictive environment is necessary;
- (5) Specify the range of care, treatment and services that shall be provided to the respondent if the petition for further detention is sustained by the court;

## **Verification**

The petition must be verified by:

- a psychiatrist or
- by a licensed physician and a mental health professional

who have examined the person and who verify under oath that the allegations in the petition are true (*DMH 134-2 Verification*). The Verification must be notarized.

Copies of the above should be provided to the prosecuting attorney and to the Department of Mental Health Central Office.

## **Court Action**

At the time the petition is filed, the court clerk shall set a date and time (*DMH 135, OSCA MH25 Order Setting Hearing*) for the hearing within two judicial days. Continuances shall only be granted for good cause. If a continuance is granted, the court shall either order the person to remain detained in the facility or may order the person released. The person shall have an attorney, shall have the rights previously noted and shall be present in person if possible. At the end of the hearing, if the court finds, based on clear and convincing evidence, that the

person presents a likelihood of serious harm due to mental illness, the court shall order (*DMH 136, OSCA MH35 Judgment for Involuntary Detention*) additional detention and treatment not to exceed 21 days. If the court does not find cause, the petition shall be dismissed and person released (*DMH 146, OSCA MH50 Order for Release*).

## **Forms**

Completed by the professional described above and presented to the Court:

*DMH 134-1 Petition for Involuntary Detention and Treatment*  
*DMH 134-2 Verification*  
*DMH 137 List of Witnesses*

Issued by the Court:

*DMH 135, OSCA MH25 Order Setting Hearing*  
*DMH 136, OSCA MH35 Judgment for Involuntary Detention*  
*DMH 146, OSCA MH50 Order for Release*

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632.330. 1. At the expiration of the ninety-six hour period, the respondent may be detained and treated involuntarily for an additional two judicial days only if the head of the mental health facility or a mental health coordinator either has filed a petition for additional inpatient detention and treatment not to exceed twenty-one days or has filed a petition for outpatient detention and treatment for a period not to exceed one hundred eighty days.

2. Within ninety-six hours following initial detention, the head of the facility or the mental health coordinator may file or cause to be filed either a petition for a twenty-one-day inpatient involuntary detention and treatment period or a petition for outpatient detention and treatment for a period not to exceed one hundred eighty days, provided he has reasonable cause to believe that the person is mentally ill and as a result presents a likelihood of serious harm to himself or others. The court shall serve the petition and list of prospective witnesses for the petitioner upon the respondent and his attorney at least twenty-four hours before the hearing. The head of the facility shall also notify the mental health coordinator if the petition is not filed by the mental health coordinator. The petition shall:

- (1) Allege that the respondent, by reason of mental illness, presents a likelihood of serious harm to himself or to others;
- (2) Allege that the respondent is in need of continued detention and treatment either on an inpatient basis or on an outpatient basis;
- (3) Allege the specific behavior of the respondent or the facts which support such conclusion;
- (4) Affirm that attempts were made to provide necessary care, treatment and services in the least restrictive environment to the respondent on a voluntary basis, but either the petitioner believes that the respondent lacks the capacity to voluntarily consent to care, treatment and services or the respondent refuses to voluntarily consent to care, treatment and services such that proceeding with a petition for the respondent's civil detention in the least restrictive environment is necessary;
- (5) Allege that there will be appropriate support from family, friends, case managers or others during the period of outpatient detention and treatment in the community if such commitment is sought;
- (6) Specify the mental health program that is appropriate to handle the respondent's condition and that has agreed to accept the respondent;
- (7) Specify the range of care, treatment and services that shall be provided to the respondent if the petition for further detention is sustained by the court;
- (8) Name the entities that have agreed to fund and provide the specified interventions; and
- (9) Be verified by a psychiatrist or by a licensed physician and a mental health professional who have examined the respondent.

See 632.335.

## **Guardianship**

The facility shall consider if the person meets criteria for a guardian or conservator. If, in the opinion of the facility the person needs a guardian or conservator, the facility shall file a petition seeking guardianship or conservatorship.

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See 632.330.4 & 475.

Reference Guide  
August 2009

## **NINETY DAY COMMITMENT**

If the head of the facility has reasonable cause to believe that a person, currently under a 21 day commitment is **mentally ill** and as a result presents a **likelihood of serious harm** to self or others and is in need of additional inpatient detention, the head of the facility may file with the probate court a **petition** for additional detention and treatment not to exceed 90 days (*DMH 134-1 Petition for Involuntary Detention and Treatment*) and **list of witness** (*DMH 137 List of Witnesses*) The court shall serve the petition and list of witnesses to the client and the client's attorney. (See the 21 day section for definitions).

The petition must be verified by:

- a psychiatrist or
- by a licensed physician and a mental health professional

who have examined the person and who verify under oath that the allegations in the petition are true (*DMH 134-2 Verification*). The verification must be notarized.

This petition must be filed **prior to or on day 17** of the 21 day commitment.

The petition shall contain all the information as described above for a 21 day commitment.

A copy of the **treatment plan** shall be attached to the petition.

Copies of the above should be provided to the prosecuting attorney and to the Department of Mental Health Central Office.

### **Court Action**

At the time the petition is filed, the court clerk shall set a date and time (*DMH 135, OSCA MH25—Order Setting Hearing*) for the hearing within four judicial days. Continuances shall only be granted for good cause. If a continuance is granted, the court shall either order the person to remain detained in the facility or may order the person released. The court may appoint a licensed physician or licensed psychologist to examine the person if the person requests. The person shall have an attorney, shall have the rights previously noted and shall be present in person if possible. At the end of the hearing, if the court finds, based on clear and convincing evidence, that the person presents a likelihood of serious harm due to mental illness, the court shall order (*DMH 136, OSCA MH35—Judgment for Involuntary Detention*) additional detention and treatment not to exceed 90 days. If the court does not find cause, the petition shall be dismissed and person released (*DMH 146, OSCA MH50 Order for Release*).



## **Forms**

Completed by the professional described above and presented to the Court:

*Same as above*  
Plus the **treatment plan**.

Issued by the Court:

*Same as above*

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See 632.340, 632.345, 632.350

## **ONE YEAR COMMITMENT**

If the head of the facility has reasonable cause to believe that a person, currently under a 90 day commitment is **mentally ill** and as a result presents a **likelihood of serious harm** to self or others and is in need of additional inpatient detention, the head of the facility may file with the probate court a **petition** for additional detention and treatment not to exceed 1 year or any lesser period of time determined by the court (*DMH 134-1 Petition for Involuntary Detention and Treatment*) and **list of witness** (*DMH 137 List of Witnesses*). (See the 21 day section for definitions).

The petition must be verified by:

- a psychiatrist or
- by a licensed physician and a mental health professional

who have examined the person and who verify under oath that the allegations in the petition are true (*DMH 134-2 Verification*). The Verification must be notarized.

This petition must be filed **prior to the expiration of the 90 day** commitment.

The petition shall contain all the information as described above for 21 day commitment.

A copy of the **treatment plan** shall be attached to the petition.

Copies shall be provided to the probate court, the client, the client's attorney the prosecuting attorney and the Department of Mental Health Central Office.

## **Court Action**

Same as for 90 days, except that the order is for a period not to exceed 1 year.

## **Forms**

Completed by the professional described above and presented to the Court:

*Same as above.*  
Plus the **treatment plan**.

Issued by the Court:

*Same as above.*

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See 632.340, 632.345, 632.350, 632. 355

## **Additional One-Year Commitment**

Successive one-year commitments may occur following the procedures described above.

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See 632.360

## **One-Year Commitment: 180 Day Review**

At least every 180 days, for persons detained under a 1 year commitment, the head of the facility shall have the person evaluated to determine if the person continues to mentally ill and to present a likelihood of serious harm. The head of the facility must provide a report of this evaluation to the court, the Department of Mental Health Central Office, the person and the person's attorney along with a copy of the person's treatment plan (*Note: There is no specific form for this report*). Upon review of this report or upon motion of the person the court may order the person discharged, order the continuation of the commitment or modify the commitment.

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632.375. 1. At least once every one hundred eighty days, the head of each mental health program shall have each respondent who is detained at the program for a one-year period under this chapter examined and evaluated to determine if the respondent continues to be mentally ill, and as a result presents a likelihood of serious harm to himself or others. The court, the mental health coordinator for the region, the respondent and the respondent's attorney shall be provided copies of the report of the examination and evaluation described by this section and the respondent's individualized treatment plan.

2. Upon receipt of the report, the court may, upon its own motion, or shall, upon the motion of the respondent, order a hearing to be held as to the need for continued detention and involuntary treatment. At the conclusion of the hearing, the court may order:

- (1) The discharge of the respondent; or
- (2) An appropriate least restrictive course of detention and involuntary treatment; or
- (3) The respondent to be remanded to the mental health program for the unexpired portion of the original commitment order.

### **Withdrawal of Petition**

If a petition for additional detention beyond 96 hours is withdrawn, the facility shall file a **withdrawal** (*DMH 139 Withdrawal of Petition*) stating the reason the petition is withdrawn and shall file a **notice of discharge or voluntary admission** (*DMH 147 Notice of Discharge/Voluntary Admission*). Copies shall be provided to the probate court, the client, the client's attorney the prosecuting attorney and the Department of Mental Health Central Office.

### **Forms**

*DMH 139 Withdrawal of Petition*

*DMH 147 Notice of Discharge/Voluntary Admission*

<b>ADDITIONAL INPATIENT DETENTION BEYOND 96 HOURS: ALCOHOL AND DRUG</b>
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### **THIRTY DAY COMMITMENT**

If the head of the facility has reasonable cause to believe that a person, currently under a 96 hour commitment abuses alcohol or drugs and as a result presents a likelihood of serious harm to self or others and is in need of additional inpatient detention, the head of the facility may file a **petition** for additional detention and treatment (*DMH 134-1 Petition for Involuntary Detention and Treatment*) for 30 days and **list of witness** (*DMH 137 List of Witnesses*).

#### **Petition**

This petition shall:

- (1) Allege that the person, by reason of alcohol and drug abuse, presents a likelihood of serious harm to self or to others;
- (2) Allege that the person is in need of continued detention, treatment and rehabilitation;
- (3) Allege the specific behavior of the person or the facts which support such conclusion;
- (4) Allege that an alcohol or drug abuse facility which is appropriate to handle the respondent's condition has agreed to accept the respondent; and
- (5) Be signed by a licensed physician who has examined the respondent.

#### **Verification**

The petition must be verified by a licensed physician who has examined the person and who verifies under oath that the allegations in the petition are true (*DMH 134-2 Verification*). The Verification must be notarized.

Copies of the petition, the list of witnesses and the verification shall be provided to the probate court, the client, the client's attorney the prosecuting attorney and the Department of Mental Health Central Office.

#### **Court Action**

At the time the petition is filed, the court clerk shall set a date and time (*DMH 135, OSCA MH30 Order Setting Hearing*) for the hearing within two judicial days. Continuances shall only be granted for good cause. If a continuance is granted, the court shall either order the person to remain detained in the facility or may

order the person released. The court shall serve the client and the client's attorney with the petition and list of witnesses. The person shall have an attorney, shall have the rights previously noted and shall be present in person if possible. At the end of the hearing, if the court finds, based on clear and convincing evidence, that the person presents a likelihood of serious harm due to alcohol or drug abuse, the court shall order (*DMH 136, OSCA MH40 Judgment for Involuntary Detention*) additional detention and treatment not to exceed 30 days. If the court does not find cause, the petition shall be dismissed and person released (*DMH 146, OSCA MH55 Order for Release*).

## **Forms**

Completed by the professional described above and presented to the Court:

*DMH 134-1 Petition for Involuntary Detention and Treatment*  
*DMH 134-2 Verification*  
*DMH 137 List of Witnesses*

Issued by the Court:

*DMH 135, OSCA MH30 Order Setting Hearing*  
*DMH 136, OSCA MH40 Judgment for Involuntary Detention*  
*DMH 146, OSCA MH55 Order for Release*

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631.140. 1. At the expiration of the ninety-six-hour period, the respondent may be detained and treated involuntarily for an additional two judicial days only if the head of the alcohol or drug abuse facility or a mental health coordinator has filed a petition for additional detention not to exceed thirty days.

2. Within ninety-six hours following initial detention, the head of the facility or the mental health coordinator may file, or cause to be filed, a petition for a thirty-day involuntary detention, treatment, or rehabilitation period provided he has reasonable cause to believe that the person abuses alcohol or drugs and presents a likelihood of serious harm to himself or others as a result of alcohol or drug abuse, or both. The court shall serve the petition and list of prospective witnesses for the petitioner upon the respondent and his attorney at least twenty-four hours before the hearing. The head of the facility shall also notify the mental health coordinator if the petition is not filed by the mental health coordinator. The petition shall:

- (1) Allege that the respondent, by reason of alcohol or drug abuse, or both, presents a likelihood of serious harm to himself or to others;
- (2) Allege that the respondent is in need of continued detention, treatment, and rehabilitation;
- (3) Allege the specific behavior of the respondent or the facts which support such conclusion;
- (4) Allege that an alcohol or drug abuse facility which is appropriate to handle the respondent's condition has agreed to accept the respondent; and
- (5) Be signed by a licensed physician who has examined the respondent.

## **NINETY DAY COMMITMENT**

If the head of the facility has reasonable cause to believe that a person, currently under a 30 day commitment as a the result of alcohol or drug abuse or both, presents a likelihood of serious harm to self or others and is in need of additional inpatient detention, the head of the facility may file a **petition** for additional detention and treatment not to exceed 90 days (*DMH 134-1 Petition for Involuntary Detention and Treatment*) and **list of witness** (*DMH 137 List of Witnesses*).

The petition must be **verified** by a licensed physician who has examined the person and who verifies under oath that the allegations in the petition are true (*DMH 134-2 Verification*). The Verification must be notarized

This petition must be filed **prior to or on day 25** of the 30 day commitment.

The petition shall contain all the information as described above for 30 day commitment.

A copy of the **treatment and rehabilitation plan** shall be attached to the petition.

Copies shall be provided to the probate court, the client, the client's attorney the prosecuting attorney and the Department of Mental Health Central Office.

### **Court Action**

At the time the petition is filed, the court clerk shall set a date and time (*DMH 135, OSCA MH30 Order Setting Hearing*) for the hearing within four judicial days. Continuances shall only be granted for good cause. If a continuance is granted, the court shall either order the person to remain detained in the facility or may order the person released. The person shall have an attorney, shall have the rights previously noted and shall be present in person if possible. At the end of the hearing, if the court finds, based on clear and convincing evidence, that the person presents a likelihood of serious harm due to alcohol or drug abuse, the court shall order (*DMH 136, OSCA MH40 Judgment for Involuntary Detention*) additional detention and treatment not to exceed 90 days. If the court does not find cause, the petition shall be dismissed and person released (*DMH 146, OSCA MH55 Order for Release*).

### **Forms**

Completed by the professional described above and presented to the Court:

*Same as above.*

Plus the **treatment and rehabilitation plan**.

Issued by the Court:

*Same as above.*

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See 631.150

### **Beyond 90 Days**

The statute does not allow for commitment beyond 90 days.

### **Withdrawal of Petition**

If a petition for additional detention beyond 96 hours is withdrawn, the facility shall file a **withdrawal** (*DMH 8537 Withdrawal of Petition*) stating the reason the petition is withdrawn and shall file a **notice of discharge or voluntary admission** (*DMH 8543 Notice of Discharge/Voluntary Admission*). Copies shall be provided to the probate court, the client, the client's attorney the prosecuting attorney and the Department of Mental Health Central Office.

### **Forms**

*DMH 8537 Withdrawal of Petition*

*DMH 8543 Notice of Discharge/Voluntary Admission*

## DISCHARGE OR VOLUNTARY ADMISSION: MENTAL HEALTH & ALCOHOL AND DRUG

The head of the facility shall release any person who is involuntarily detained if the person is no longer mentally ill or if mentally ill does not present a likelihood of serious harm even if the commitment period has not expired.

The head of the facility may also allow the person to sign in voluntarily if, in the opinion of the facility head, the person's request for voluntary admission is made in good faith. Once the person signs in voluntarily, the commitment ends.

If the person is discharged or allowed to sign in voluntarily, the head of the facility shall complete the **notice of discharge or voluntary admission** (*Mental Health: DMH 147 Notice of Discharge/Voluntary Admission; Alcohol & Drug: DMH 8543 Notice of Discharge/Voluntary Admission*).

Copies shall be provided to the probate court, the client, the client's attorney and the Department of Mental Health Central Office.

### **Forms**

*DMH 147 Notice of Discharge/Voluntary Admission*  
*DMH 8543 Notice of Discharge/Voluntary Admission*

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632.390. 1. The head of a mental health program shall release any person who is involuntarily detained under this chapter when, in his opinion, the person is no longer mentally ill or, although mentally ill, does not present a likelihood of serious harm to himself or others, even though the detention period has not expired.

2. Whenever the head of a mental health program discharges a person prior to the expiration of the detention order, he shall notify in writing the court and the mental health coordinator.

3. Whenever a respondent voluntarily admits himself and the head of a mental health program accepts the admission application submitted by respondent in good faith under section 632.105, the respondent's involuntary detention shall cease, and the head of the program shall notify, in writing, the court and the mental health coordinator.

See **631.175**



## EDUCATIONAL MATERIALS: MENTAL HEALTH

Whenever a person who has been involuntarily committed to a mental health facility is discharged or allowed to sign in voluntarily, the person shall be provided a packet of educational material developed and supplied by the Department of Mental Health that describes symptoms of common mental illnesses and signs of decompensation. The packet shall include information about other resources, information about civil commitment and guardianship and a contact telephone number. This information is contained in the booklet: *Civil Detention Information: For Persons Detained To Mental Health Facilities and Programs* and is available for download from the Department of Mental Health website

<http://www.dmh.mo.gov/cps/facts/civil.htm>

There is not a similar requirement for those discharged from alcohol and drug abuse facilities.

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See 632.392.

## **LIABILITY: MENTAL HEALTH & ALCOHOL AND DRUG**

### **No liability for health care professionals, public officials and certain peace officers**

632.440. No officer of a public or private agency, mental health facility or mental health program; no head, attending staff or consultant of any such agency, facility or mental health program; no mental health coordinator, registered professional nurse, licensed physician, mental health professional nor any other public official performing functions necessary for the administration of this chapter; no peace officer responsible for detaining a person pursuant to this chapter; and no peace officer responsible for detaining or transporting, or both, any person upon the request of any mental health coordinator pursuant to section 632.300 or 632.305 or acting pursuant to the request of a guardian who is acting pursuant to chapter 475, RSMo, or upon the request of the head of any supervisory mental health program who is acting pursuant to section 632.337, regardless of whether such peace officer is outside the jurisdiction for which he serves as a peace officer during the course of such detention or transportation, or both, shall be civilly liable for investigating, detaining, transporting, conditionally releasing or discharging a person pursuant to this chapter or chapter 475, RSMo, at or before the end of the period for which the person was admitted or detained for evaluation or treatment so long as such duties were performed in good faith and without gross negligence.

### **No liability for petitioners**

632.445. No person making or filing an application alleging that a person should be involuntarily detained, certified or committed, treated or evaluated pursuant to this chapter shall be rendered civilly or criminally liable if the application was made and filed in good faith.

### **Cross Reference**

By reference, these sections of the statute apply to alcohol and drug abuse civil involuntary commitment as well.

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See 631.175.

## DEFINITIONS

### Commitment Criteria

#### Section 630.005.

(2) **"Alcohol abuse"**, the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

(12) **"Drug abuse"**, the use of any drug without compelling medical reason, which use results in a temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical impairment and causes socially dysfunctional behavior;

(22) **"Mental disorder"**, any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living;

(23) **"Mental illness"**, a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:

- (a) Mental retardation, developmental disability or narcolepsy;
- (b) Simple intoxication caused by substances such as alcohol or drugs;
- (c) Dependence upon or addiction to any substances such as alcohol or drugs;
- (d) Any other disorders such as senility, which are not of an actively psychotic nature;

#### Section 632.005.

(10) **"Likelihood of serious harm"** means any one or more of the following but does not require actual physical injury to have occurred:

- (a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;
- (b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;

## **Professionals**

### **Section 632.005**

**(8) "Licensed physician"**, a physician licensed pursuant to the provisions of chapter 334, RSMo, or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150, RSMo;

**(9) "Licensed professional counselor"**, a person licensed as a professional counselor under chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder

**(13) "Mental health professional"**, a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, licensed professional counselor or psychiatric social worker;

**(17) "Psychiatric nurse"**, a registered professional nurse who is licensed under chapter 335, RSMo, and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

**(18) "Psychiatric social worker"**, a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder;

**(19) "Psychiatrist"**, a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

**(20) "Psychologist"**, a person licensed to practice psychology under chapter 337, RSMo, with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals;

**(21) "Resident in psychiatry"**, a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

### **Section 631.005**

**(4) "Qualified counselor"**, a person who provides substance abuse counseling and who meets the qualifications prescribed in the standards for certification of alcohol and drug abuse programs under rules promulgated by the department of mental health, as authorized by sections 630.050 and 630.655, RSMo;

## **Other Definitions**

### **Section 630.005.**

**(15) "Head of the facility"**, the chief administrative officer, or his designee, of any residential facility;

### **Section 631.005**

**(1) "Alcohol or drug abuse facility"**, a place providing treatment and rehabilitation to persons engaged in alcohol or drug abuse, or both, which is recognized as such a place by the department of mental health;

### **Section 632.005.**

**(6) "Head of mental health facility"**, superintendent or other chief administrative officer of a mental health facility, or his designee;

**(7) "Judicial day"**, any Monday, Tuesday, Wednesday, Thursday or Friday when the court is open for business, but excluding Saturdays, Sundays and legal holidays;

**(12) "Mental health facility"**, any residential facility, public or private, or any public or private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental illness and which is recognized as such by the department or any outpatient treatment program certified by the department of mental health. No correctional institution or facility, jail, regional center or mental retardation facility shall be a mental health facility within the meaning of this chapter;

**(15) "Ninety-six hours"** shall be construed and computed to exclude Saturdays, Sundays and legal holidays which are observed either by the court or by the mental health facility where the respondent is detained;

**(16) "Peace officer"**, a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

**(22) "Respondent"**, an individual against whom involuntary civil detention proceedings are instituted pursuant to this chapter;

The *Revised Statutes of Missouri (RSMo.)* can be accessed on-line at  
<http://www.moga.mo.gov/STATUTES/STATUTES.HTM>

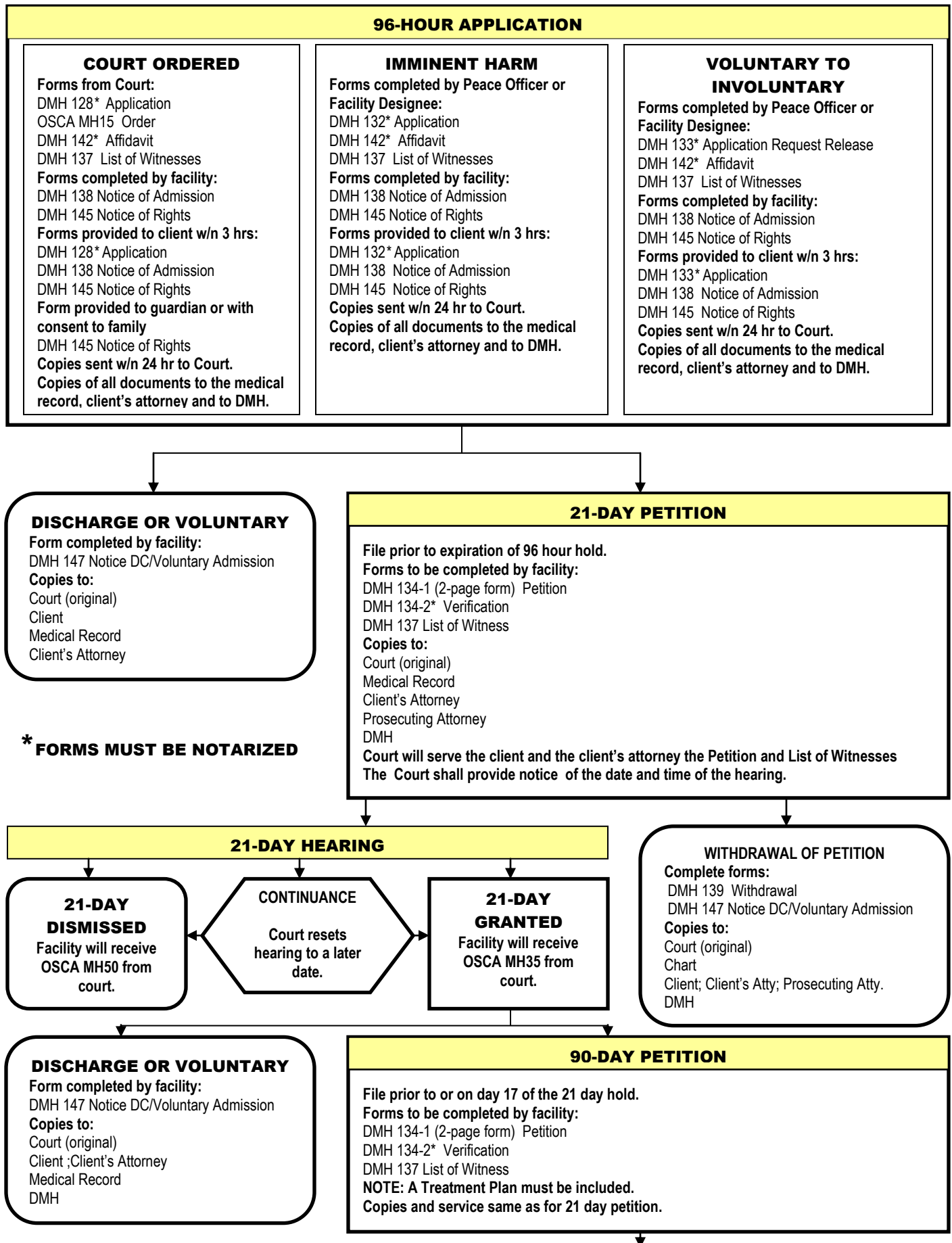
## ATTORNEYS

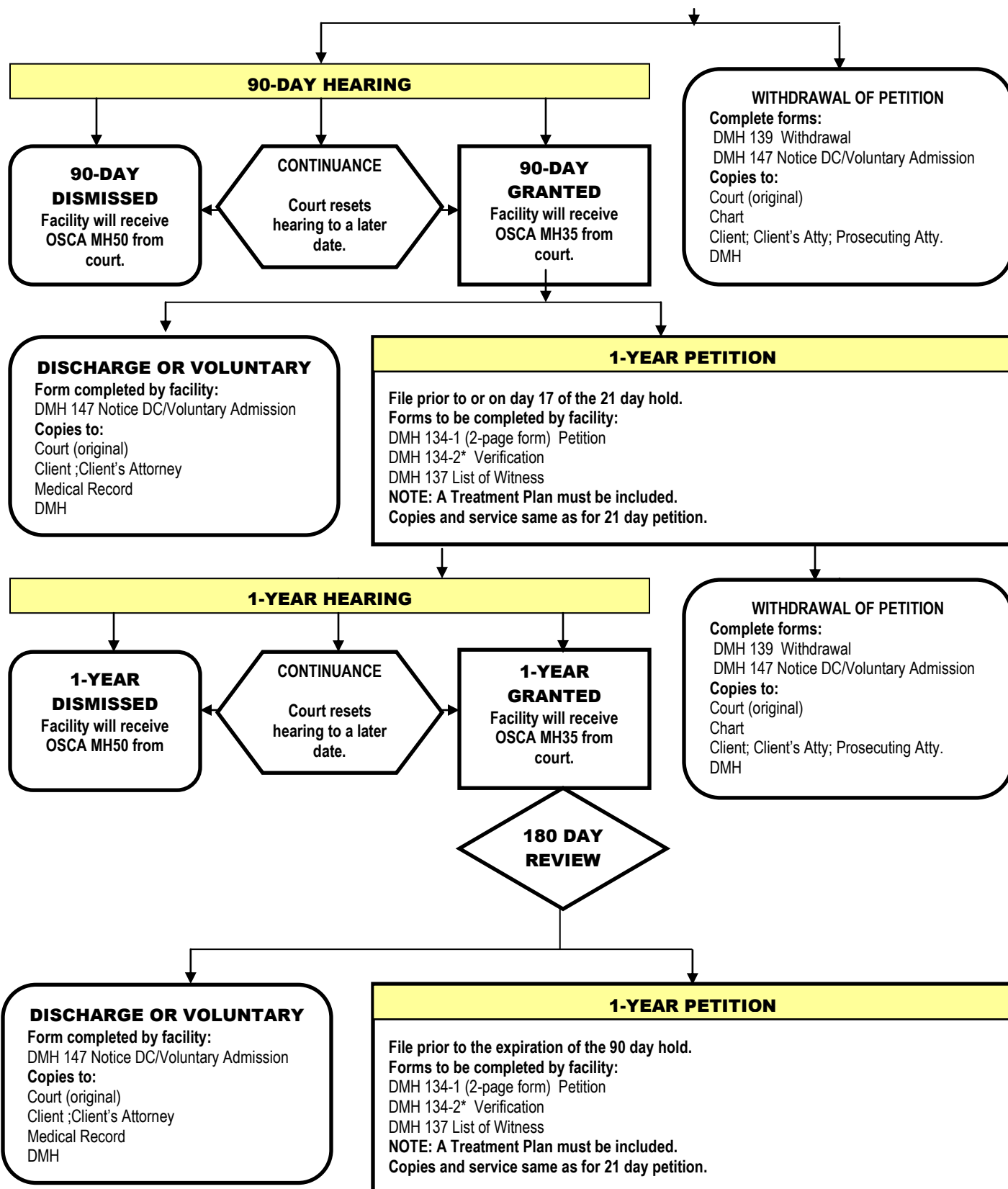
- Attorneys are provided for all persons civilly committed, or the person may chose an attorney
- If the Judge finds the person is unable to pay, the attorney fee (which is set by the Judge) is taxed as a cost and paid from a state fund
- A list is maintained of attorneys who have agreed to serve

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See 632.415 and 631.175

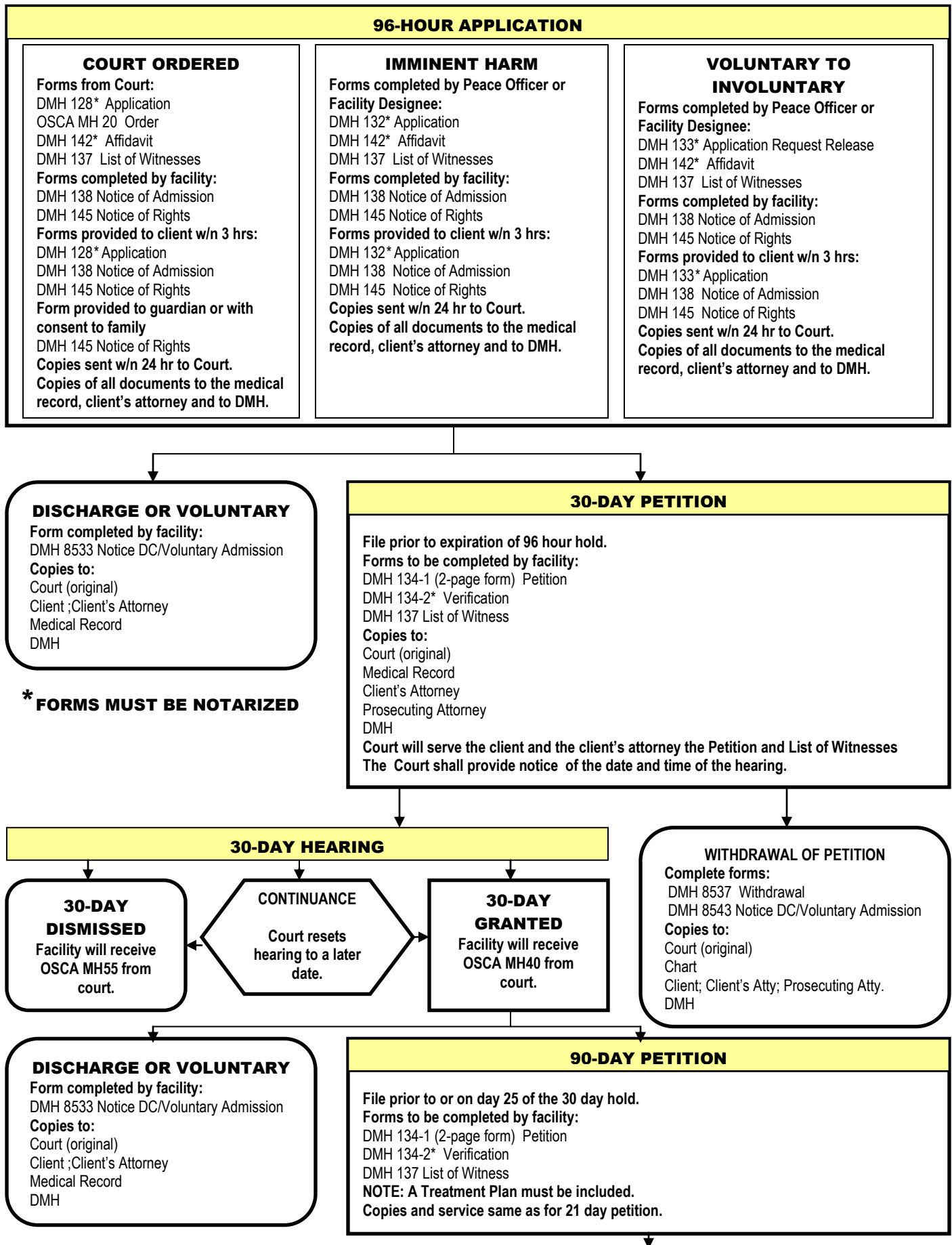
## Civil Involuntary Detention Process: Mental Health



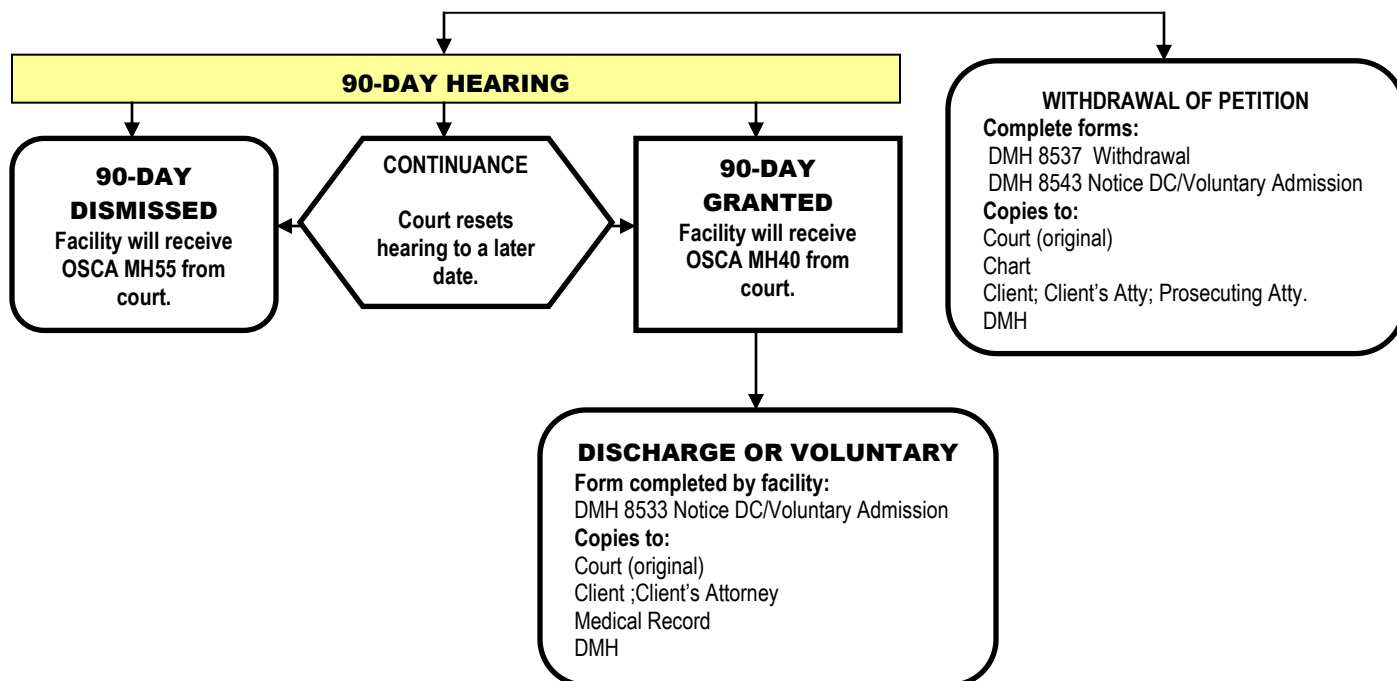




## Civil Involuntary Detention Process: Alcohol and Drug



**\* FORMS MUST BE NOTARIZED**



## TIMELINES AND CRITERIA FOR CIVIL COMMITMENTS

	CRITERIA	TIMELINES
<b>96-HOUR</b>	Mental Disorder/ Substance Abuse and Likelihood of Harm as a Result of Mental Disorder or Alcohol/Drug Abuse	<p>The 96-hours begin at the time the person arrives at the hospital. The 96-hours exclude Saturdays, Sundays, and holidays. To calculate, simply count over 4 days skipping the excluded days.</p> <p><u>Examples:</u></p> <ul style="list-style-type: none"> <li>• If the person arrives at 2:30 pm on a Friday with a Monday holiday, the 96-hours end at 2:30 pm the next Friday (Saturday, Sunday, and Monday are excluded).</li> <li>• If Monday is not a holiday, then the 96-hours end on Thursday at 2:30 pm.</li> </ul> <p><b>NOTE:</b> If further detention is required, a petition must be filed in court prior to the expiration of the 96-hours. The court has two days to set the hearing during which time the person remains in the hospital.</p>
<b>21-DAY</b>	Mental Illness and Likelihood of Harm as a Result of Mental Illness	The 21-day petition must be filed prior to the expiration of the 96-hour detention.
<b>30-DAY</b>	Alcohol/Drug Abuse and Likelihood of Harm as a Result of Alcohol/Drug Abuse	The 30-day petition must be filed prior to the expiration of the 96-hour detention.
<b>90-DAY</b>	Mental Illness and Likelihood of Harm as a Result of Mental Illness	The 90-day petition must be filed by the 17 <sup>th</sup> day of the 21-day detention and a treatment plan must be attached to the petition.
<b>90-DAY</b>	Alcohol/Drug Abuse and Likelihood of Harm as a Result of Alcohol/Drug Abuse	The 90-day petition must be filed by the 25 <sup>th</sup> day of the 30-day detention and a treatment plan must be attached to the petition.
<b>NOTE: There is no further time period for substance abuse detentions.</b>		
<b>1-YEAR</b>	Mental Illness and Likelihood of Harm as a Result of Mental Illness	The 1-year petition must be filed prior to the expiration of the 90-day detention, and a treatment plan must be attached to the petition.
<b>NOTE: The 96-hour period excludes weekends and holidays. All other periods are calendar days.</b>		

## QUESTIONS AND ANSWERS ABOUT CIVIL DETENTION

### ***1. Who has the authority to apply for civil detention?***

**Any adult person** may file an application for the detention of a person with the Probate Division of the Circuit Court in the county where the person is found. The applicant must be able to describe the person's behavior that indicates a mental disorder or alcohol/drug abuse and how this person is harmful as a result of the mental disorder or alcohol/drug abuse. Written statements in the form of Affidavits attesting to the behavior are important to attach to the application.

**Peace officers** (law enforcement officers) have the authority to make application directly to a recognized mental health or alcohol/drug abuse facility for a person that they believe is imminently harmful. The peace officer's application will be based on the officers own personal observations or investigations. Emergency situations where harm is imminent is best handled by law enforcement officers. Mental health or alcohol/drug abuse professionals, families and friends should directly contact law enforcement when a person becomes uncontrollable and harm appears imminent.

**Designated mental health professionals** (facility designees) are located in recognized mental health or alcohol/drug abuse facilities. These professionals are designated by the head of the facility and approved by the Department of Mental Health and are authorized to immediately detain a person to the recognized facility if the person presents with a mental disorder and a likelihood of harm.

### ***2. How long will the person be in a mental health or alcohol/drug abuse facility?***

The length of stay depends on the seriousness of the person's problem and how quickly the person responds to treatment. The treatment team will determine if the person is to be treated voluntarily, involuntarily, discharged, or conditionally released. The purpose of the initial detention is to determine if the person is mentally ill or an alcohol/drug abuser and as a result harmful to self or others.

### ***3. If there is a court hearing for commitment beyond the 96-hour detention, will I have to testify?***

In most cases the person's mental illness or alcohol/drug abuse and harm is evident and observable by the treating physician and staff. Sometimes, evidence of harm is not easily detected in a hospital setting. In such instances, persons who have observed the behavior may be asked to testify in court as to their observations.

***4. Will I be liable for the things that I write or say about the person or for Initiating a civil detention?***

No, if you told the truth and acted in good faith. The law gives specific protections for good faith applications.

***5. If the Court orders a person detained, who transports the person to the mental health or alcohol/drug abuse facility?***

Law enforcement, usually the sheriff, is responsible for carrying out the order and determines when the person will be picked up. There may be a period of time before law enforcement is able to respond, but in most instances law enforcement will detain and transport the person to the appropriate facility without undue delay.

***6. Are there any costs involved in the civil detention process?***

Your local probate court clerk can advise you as to any court fees. Most treatment facilities charge for admissions; some facilities charge based upon the ability to pay. The cost of treatment at a facility is between the person treated and the facility.

***7. Can a person be detained to a private mental health or alcohol/drug abuse facility?***

A person can be detained at a public or private facility that is recognized by the Department of Mental Health to accept involuntary civil commitments.